

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

**Proposing rule making related to collections
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 95, “Collections,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 252B.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 252B.3.

Purpose and Summary

Chapter 95 was reviewed as part of the Department’s five-year rules review. These rules outline the eligibility for child support recovery services under federal and state laws and the rules for children and families referred to the child support recovery unit who have applied for or are receiving public assistance.

The rules review resulted in proposed technical changes. Proposed amendments bring the rules in line with current program terminology and correct outdated rule references. References to federal regulations are proposed to be updated to provide accurate listings, and outdated references are proposed to be removed. Mailing addresses are also proposed to be updated.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 22, 2022. Comments should be directed to:

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule **441—95.1(252B)**, definition of “Current support,” as follows:

“*Current support*” shall mean those payments received in the amount, manner and frequency as specified by an order for support and which are paid to the clerk of the district court, the public agency designated as the distributor of support payments as in interstate cases, or another designated agency. Payments to persons other than the clerk of the district court or other designated agency do not satisfy the definition of support pursuant to Iowa Code section 598.22. ~~In addition, current support shall include assessments received as specified pursuant to rule 441—156.1(234).~~

ITEM 2. Amend subrule 95.2(4) as follows:

95.2(4) *Application for services.*

A person who is not on public assistance requesting services under this chapter, except for those persons eligible to receive support services under paragraphs 95.2(2)“a,” “b,” and “c,” shall complete and ~~return~~ submit to the child support recovery unit Form 470-0188, Application for Nonassistance Support Services, or an electronic version of such application, for each parent from whom the person is seeking support. The person requesting services has the option to seek support from one or both of the child’s parents.

~~a.—The application shall be returned to the child support recovery unit serving the county where the person resides. If the person does not live in the state, the application form shall be returned to the county in which the support order is entered or in which the other parent or putative father resides.~~

~~b.—The person requesting services has the option to seek support from one or both of the child’s parents.~~

ITEM 3. Amend paragraph **95.3(1)“a”** as follows:

a. For the purpose of reporting the date the income was withheld, the department shall notify income providers of the requirement to report the date income was withheld and shall provide Form 470-3221, ~~“Income Withholding Return Document,”~~ to those income providers who manually remit payments. When reported on this form or through other electronic means or multiple account listings, the date of collection shall be used to determine support distributions. When the date of collection is not reported, support distributions shall initially be issued based on the date of the check. If proof of the date of collection is subsequently provided, any additional payments due the recipient shall be issued.

ITEM 4. Adopt the following **new** implementation sentence in rule **441—95.4(252B)**:

This rule is intended to implement Iowa Code section 252B.14.

ITEM 5. Amend subrule 95.5(1) as follows:

95.5(1) Any lump sum settlement of child support involving an assignment of child support payments shall be negotiated in conjunction with the child support recovery unit. The child support recovery unit shall be responsible for the determination of the amount due the department, including any accrued interest on the support debt computed in accordance with Iowa Code section 535.3 for

court judgments. This determination of the amount due shall be made in accordance with Section 302.51, Code of Federal Regulations, Title 45 as amended to ~~August 4, 1989~~ September 1, 2022. The bureau chief may waive collection of the accrued interest when negotiating a lump sum settlement of a support debt, if the waiver will facilitate the collection of the support debt.

ITEM 6. Amend paragraph **95.13(1)“a”** as follows:

a. An obligee may contact a customer service representative ~~in person at the department’s collection services center~~, by telephone ~~through the specialized customer services unit~~, or by writing to the Collection Services Center, ~~727 East 2nd Street~~ P.O. Box 9243, Des Moines, Iowa 50306.

ITEM 7. Amend paragraph **95.14(1)“a”** as follows:

a. The child support recovery unit may terminate services when the case meets at least one of the following case closure criteria and the child support recovery unit maintains supporting documentation for the case closure decision in the record:

(1) to (4) No change.

(5) The noncustodial parent’s location is unknown and the child support recovery unit has made diligent efforts to locate the noncustodial parent using multiple sources, in accordance with regulations in 45 CFR 303.3, as amended to September 1, 2022, all of which have been unsuccessful, within the applicable time frame:

1. and 2. No change.

(6) to (13) No change.

(14) The child support recovery unit documents failure by the initiating agency, as defined under 45 CFR 301.1, as amended to September 1, 2022, to take an action that is essential for the next step in providing services.

(15) The initiating agency, as defined under 45 CFR 301.1, as amended to September 1, 2022, has notified the child support recovery unit that the initiating agency has closed its case.

(16) The initiating agency, as defined under 45 CFR 301.1, as amended to September 1, 2022, has notified the child support recovery unit that its intergovernmental services are no longer needed.

(17) and (18) No change.

ITEM 8. Amend subparagraph **95.14(1)“c”(2)** as follows:

(2) The child support recovery unit receives instructions for case closure from an initiating agency, as defined under 45 CFR 301.1 as amended to September 1, 2022. Within ten working days, the child support recovery unit must stop the income withholding order or notice and close the intergovernmental IV-D case.

ITEM 9. Amend subrule 95.14(2) as follows:

95.14(2) Case closure notifications. In cases meeting one of the criteria of subrule 95.14(1), except subparagraph 95.14(1)“a”(9), (10), or (11), the child support recovery unit shall send notification of its intent to close the case to the recipient of services or the initiating agency, as defined under 45 CFR 301.1, as amended to September 1, 2022, in writing 60 calendar days before case closure. The notice shall be sent to the recipient of services or the state requesting services at the last-known address stating the reason for denying or terminating services, the effective date, and an explanation of the right to request a hearing according to 441—Chapter 7. Closure of the case following notification is subject to the following:

a. If, in response to the notice, the recipient of services or the initiating agency, as defined under 45 CFR 301.1, as amended to September 1, 2022, supplies information which could lead to the establishment of paternity or a support order or enforcement of an order, the case shall be kept open.

b. to d. No change.

ITEM 10. Amend paragraph **95.15(2)“b”** as follows:

b. The child support recovery unit ~~attorney~~ shall issue written disclosure of the attorney-client relationship between the attorney and the state of Iowa to recipients of child support enforcement services and to all parties in a review and adjustment proceeding.

ITEM 11. Amend rule ~~441—95.15(252B)~~, implementation sentence, as follows:
This rule is intended to implement Iowa Code sections 252B.5 to 252B.7 and ~~598.21~~ 598.21C.

ITEM 12. Rescind and reserve rule ~~441—95.16(252B)~~.

ITEM 13. Adopt the following **new** implementation sentence in rule ~~441—95.17(252B)~~:
This rule is intended to implement Iowa Code section 252B.14.

ITEM 14. Amend rule ~~441—95.18(252B)~~ as follows:

~~441—95.18(252B)~~ Continued services available to canceled family investment program (FIP) or Medicaid recipients. Support services shall automatically be provided to persons who were eligible to receive support services as recipients of FIP or Medicaid and who were canceled from FIP or Medicaid. Continued support services shall not be provided to a person who has been canceled from FIP or Medicaid when a claim of good cause, as defined at ~~441—subrule 41.22(8)~~ 441—Chapter 41 or ~~441—subrule 75.14(3)~~ 441—Chapter 75, as appropriate, was valid at the time assistance was canceled or when one of the reasons for termination of services, listed at rule ~~441—95.14(252B)~~, applies to the case.

Support services shall be provided to eligible persons without application or application fee, but subject to applicable enforcement fees.

~~95.18(1)~~ Notice of services. When a family is no longer eligible for public assistance, the department shall forward Form 470-1981, ~~Notice of Continued Support Services~~, to the family's last-known address within five working days of the notification of ineligibility, to inform the family of the following:

a. and b. No change.

~~95.18(2)~~ Termination of services. A person may request the department to terminate support services at any time by the completion and return of the appropriate portion of Form 470-1981, ~~Notice of Continued Support Services~~, or in any other form of written communication, to the child support recovery unit.

Continued support services may be terminated at any time for any of the reasons listed in rule ~~441—95.14(252B)~~.

~~95.18(3)~~ No change.

This rule is intended to implement Iowa Code section 252B.4.

ITEM 15. Amend rule ~~441—95.19(252B)~~ as follows:

~~441—95.19(252B)~~ Cooperation of public assistance recipients in establishing and obtaining support. If a person who is a recipient of FIP or Medicaid is required to cooperate with the child support recovery unit in establishing paternity; in establishing, modifying, or enforcing child or medical support; or in enforcing spousal support, the following shall apply:

~~95.19(1)~~ Cooperation defined. The person shall cooperate in good faith in obtaining support for persons whose needs are included in the assistance grant or Medicaid household, except when good cause or other exception as defined in ~~441—subrule 41.22(8)~~ 441—Chapter 41 or ~~75.14(8)~~ 441—Chapter 75 for refusal to cooperate, is established.

a. and b. No change.

c. The person shall cooperate with the child support recovery unit to the extent of supplying all known information and documents pertaining to the location of the noncustodial parent and taking action as may be necessary to secure or enforce a support obligation or establish paternity or to secure medical support. This includes completing and signing Form 470-3877, ~~Child Support Information~~, if requested, as well as documents determined to be necessary by the state's attorney for any relevant judicial or administrative process.

~~95.19(2)~~ Failure to cooperate. The local child support recovery unit shall make the determination of whether or not a person has cooperated with the unit. The child support recovery unit shall promptly send notice of a determination of noncooperation to the person on Form 470-3400, ~~Notice of Noncooperation~~, and notify the FIP and Medicaid programs, as appropriate, of the noncooperation determination and the reason for the determination. The FIP and Medicaid programs shall take appropriate sanctioning actions as provided in statute and rules.

95.19(3) *Good cause or other exception.*

a. A person who is a recipient of FIP assistance may claim a good cause or other exception for not cooperating, taking into consideration the best interests of the child as provided in ~~441—subrules 41.22(8) through 41.22(12)~~ 441—Chapter 41.

b. A person who is a recipient of Medicaid may claim a good cause or other exception for not cooperating, taking into consideration the best interests of the child as provided in ~~441—subrule 75.14(3)~~ 441—Chapter 75.

This rule is intended to implement Iowa Code section 252B.3.

ITEM 16. Amend rule ~~441—95.20(252B)~~, introductory paragraph, as follows:

441—95.20(252B) Cooperation of public assistance applicants in establishing and obtaining support. If a person who is an applicant of FIP or Medicaid is required to cooperate in establishing paternity; in establishing, modifying, or enforcing child or medical support; or in enforcing spousal support, the requirements in ~~441—subrule 41.22(6)~~ 441—Chapter 41 and ~~rule 441—75.14(249A)~~ 441—Chapter 75 shall apply. The appropriate staff in the FIP and Medicaid programs are designees of the child support recovery unit to determine noncooperation and issue notices of that determination until the referral to the unit is completed.

ITEM 17. Amend subrule 95.21(2) as follows:

95.21(2) *Failure to cooperate.* The child support recovery unit shall make the determination of whether or not the nonpublic assistance applicant or recipient of services has cooperated. Noncooperation shall result in termination of support services. An applicant or recipient may also request termination of services under ~~95.14(1)“b”(1)~~ subparagraph 95.14(1)“a”(10).

ITEM 18. Amend subrule 95.25(1) as follows:

95.25(1) *Verification process.* CSRU shall send Form 470-2562, ~~Emancipation Verification~~, to the obligor and obligee on a case if CSRU has an address.